

## **REMARKS**

### ***RCE under 37 CFR §1.114***

This Amendment accompanies a Request for Continued Examination (RCE) and associated fee under 37 CFR §1.17(e). Applicants believe that no additional fees are required. However, the Commissioner is authorized to charge our Deposit Account No. 08-2789 for any additional fees or credit the account for any overpayment.

### ***Claims***

After entry of this amendment, claims 22, 24, 26-29, 31, and 41 will be pending in the application. Claim 22 has been amended. Claims 1-21, 23, 25, 30, and 32-40 have been previously canceled. No claims have been added. Reconsideration is respectfully requested in light of an Interview (hereinafter the "Interview") conducted between Applicants' attorney, Trent K. English and Examiner Andrew M. Gilbert on December 13, 2006.

### ***Claim Rejections – 35 U.S.C. §102(b)***

Claims 22, 24, 26-29, and 31 stand rejected under 35 U.S.C. §102(b) as being anticipated by Ray et al. (U.S. Patent No. 6,109,895). Claims 22, 24, 26-29, and 31 stand rejected under 35 U.S.C. §102(b) as being anticipated by Monk et al. (U.S. Patent No. 5,433,588). Claims 22, 24, 26-29, and 31 stand rejected under 35 U.S.C. §102(b) as being anticipated by Kablik et al. (U.S. Patent No. 5,928,257). Based on the outcome of the Interview, Applicants believe that the rejections to independent claim 22 have been overcome. Applicants have amended independent claim 22 to clarify the invention set forth therein.

Independent claim 22 recites a tube set for use with a surgical pump and tool system to supply irrigation fluid to a tool of the system. The tube set includes an inlet tube 348A having first and second ends and an outlet tube 348B having first and second ends. The tube set further includes a cassette 302 for insertion into the surgical pump 13. The cassette 302 has a front, first and second spaced apart opposed sides that extend from the front, and a rear opposite the front that extends between the sides. The rear has

a forwardly directed wall 352. The cassette 302 also includes a compressible tube 354 having opposed ends that extends across an outer surface of the forwardly directed wall 352 such that the compressible tube 354 is compressible against the forwardly directed wall 352 to deliver the fluid through the tube set. The cassette 302 further includes a locking finger 602 attached to the first side of the cassette 302. The locking finger 602 has a base disposed between the rear and the front that extends to a tip located adjacent the front, and an outer surface adjacent the first side. A retention feature 616 is formed on the outer surface between the base and tip to engage a retention feature integral with the surgical pump 13. The locking finger 602 is pivotally attached to the first side to move towards the second side so that, when the locking finger 602 is so pivoted, the locking finger retention feature 616 disengages from the surgical pump retention feature.

During the Interview, Applicants' attorney and Examiner Gilbert discussed each of the prior art references in turn including Ray et al., Monk et al., and Kablik et al. Ray et al. discloses a tube set 200 and a cassette 300 for engaging a pump unit 100. The cassette 300 includes projections 306 (see FIG. 3) for locking the cassette 300 to the pump unit 100. As discussed by Applicants' attorney in the Interview, the projections 306 in Ray et al. do not include a tip adjacent to a front of the cassette 300, as required by independent claim 22. Instead, the projections 306, which have to be depressed by release buttons 104 to release the cassette 300 from the pump unit 100, are located near the *rear of the cassette 300*. For this reason, the cassette 300 of Ray et al. could not be used with the pump unit 13 disclosed in FIG. 42A of the subject application, since this pump unit 13 includes a four-sided slot 322 that makes it impossible to reach into the slot 322 to grasp near the *rear of the cassette*. Conversely, the cassette set forth in independent claim 22 includes a locking finger with a tip located adjacent the front to allow for easy grasping of the cassette near the front to easily remove the cassette from such a pump unit. Examiner Gilbert agreed that independent claim 22 is not anticipated by Ray et al. for these reasons.

Monk et al. discloses a pump unit 10 with a disposable insert 61 having a compressible tube 81 for engaging the pump unit 10. A cover 91 is adapted to slide over the disposable insert 61 and hold the insert 61 in place against the pump unit 10. The

cover 91 includes a pair of wings 101, 102 for sliding in corresponding slots 36, 37 in the pump unit 10 to prevent the cover 91 from pulling away from the pump unit 10 when the wings 101, 102 are slid upwardly into position. The cover 91 also includes a locking rib 111 that is urged outwardly away from the pump unit 10 as the cover 91 is slid upwardly into place. The locking rib 111 then “snaps” into place on top of locking surfaces 28, 29 to prevent the cover 91 from sliding downwardly once in place. Once in place, the cover 91 serves to enclose the disposable insert 61 against the pump unit 10. As discussed by Applicants’ attorney in the Interview, the locking rib 111 of Monk et al. is pivoted outwardly to snap-fit to the pump unit 10. For this reason, the cover 91 and disposable insert 61 of Monk et al. could not be used with the pump unit 13 disclosed in FIG. 42A of the subject application, since this pump unit 13 includes a four-sided slot 322 surrounding the cassette. Since the cover 91 of Monk et al. requires pivoting the locking rib 111 outwardly, the locking rib 111 would not work in the slot 322 since the sides of the slot prevent outwardly directed pivoting motion. Conversely, the cassette set forth in independent claim 22 includes a locking finger with a tip located adjacent the front that pivots inwardly toward an opposite side of the cassette to allow for easy release of the cassette from such a pump unit. Examiner Gilbert agreed that independent claim 22 is not anticipated by Monk et al. for these reasons.

Kablik et al. discloses a tube set 14 having a cassette 190 for inserting into a pump unit 13. The cassette 190 includes wings 222 for locking the cassette 190 to the pump unit 100. As discussed by Applicants’ attorney in the Interview, the wings 222 in Kablik et al. do not include a tip adjacent to a front of the cassette 190, as required by independent claim 22. Instead, the wings 222, which have to be pressed toward one another to release the cassette 190 from the pump unit 13, are located midway down the cassette 190. For this reason, the cassette 190 of Ray et al. could not be used with the pump unit 13 disclosed in FIG. 42A of the subject application, since this pump unit 13 includes a four-sided slot 322 that makes it impossible to reach into the slot 322 to grasp beyond the front of the cassette. Conversely, the cassette set forth in independent claim 22 includes a locking finger with a tip located adjacent the front to allow for easy grasping of the cassette near the front to easily remove the cassette from such a pump

unit. Examiner Gilbert agreed that independent claim 22 is not anticipated by Kablik et al. for these reasons.

For the reasons set forth above, and the failure of each of Ray et al., Monk et al., and Kablik et al. to anticipate each and every feature recited in independent claim 22, Applicants respectfully submit that independent claim 22 is in condition for allowance. Applicants submit that dependent claims 24, 26-29, 31, and 41 are also in condition for allowance based on their own merits and their dependency to independent claim 22 and the failure of the references to suggest independent claim 22.

***Claim Rejections – 35 U.S.C. §103(a)***

Dependent claim 41 stands rejected as being unpatentable over Ray et al., Monk et al., or Kablik et al. in view of Troutner et al. (U.S. Patent No. 4,692,138). This rejection is now moot for the reasons set forth above and the patentability of base independent claim 22 over the prior art of record.

In the Interview, Examiner Gilbert indicated that a new search would need to be conducted to ensure patentability of the pending claims. Applicants have respectfully agreed to the filing of the attached request for continued examination (RCE) to conduct such a search.

Otherwise, Applicants believe the application is now in condition for allowance, which allowance is respectfully solicited. Applicant believes that no additional fees are required. In any event, however, the Commissioner is authorized to charge our Deposit Account No. 08-2789 for any additional fees or credit the account for any overpayment.

**Respectfully submitted,  
HOWARD & HOWARD ATTORNEYS, P.C.**

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**Date**

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